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Assembly California Legislature



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AND AVAILABILITY

July 9, 2002

Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814

Dear Commissioners:

I have read the staff analysis of AB13, dated June 28, 2002. As the Commission prepares to consider AB13 at its July 11, 2002 meeting, I would like to make a few points regarding the bill and issues raised in the analysis.

As we all know, even small pebbles of change create ripples through the Political Reform Act (PRA) and the Commission's enforcement structure. As PRA amendments go, AB13 is a fairly good-sized rock. I would like to thank your staff for its willingness to work with my office to craft a measure that achieves my goals without harming the PRA or unduly burdening the Commission.

I introduced AB13 to close a loophole in the lobbying laws that came to my attention during recent hearings held by the Joint Legislative Audit Committee on a computer software contract between the state and the Oracle Corporation. The problem is this:

- Decisions by state-government entities to enter contracts to procure goods or services affect hundreds of millions of dollars in taxpayers' money.
- Under Commission regulations, vendors' attempts to influence such decisions fall outside the PRA's provisions regulating lobbyists and lobbying.
- As a result, vendors seeking such contracts can wine and dine appointed and elected officials without any monetary limit, and without any public accounting – in short without having to comply with any of the laws governing lobbying.

I strongly believe this is a loophole that must be closed. The public deserves to know just as much about attempts to influence contracts to spend its money as it does about attempts to influence legislation.

With that goal in mind, my overarching purpose with AB13 is to apply the current statutory and regulatory structure to vendors, and in-house salespeople and outside consultants, who attempt to influence state-government decisions on contracts to procure goods or services. As currently drafted, the bill seeks to achieve that objective by expanding the statutory definition of "administrative action" to include such decisions.



I am fully aware the proposal will require more reporting by more individuals and firms, and subject more people to restrictions on gifts and campaign contributions. But open, accountable, clean government does not come cheap, or without sacrifice.

Those who decided to put this exemption into the Commission's regulations back in 1975 no doubt had solid reasons. But the Oracle hearings, and other developments highlighting suspect procurement practices, have provided clear and convincing evidence of the need reconsider, and remove, the exemption.

The Commission staff's analysis of AB13 raises some excellent issues. For example, page 2 notes the measure currently encompasses "implementation" and "oversight" of contracts after they are signed. I have prepared an amendment to eliminate that language.

Also on page 2, staff notes the bill would prohibit salespeople from receiving their commissions. I have prepared another amendment to clarify the bill would not prohibit in-house salespeople from earning commissions.

Outside consultants, however, would be subject to the current statutory prohibition against contingency fees. As you may be aware, Oracle's outside consultant, Ravi Mehta, had a bonus clause in his contract. He subsequently billed Oracle for a \$250,000 bonus. Such payments would be prohibited under AB13.

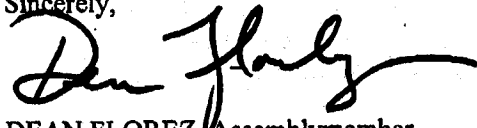
Regarding the "revolving door" issues raised on page 3 of the staff analysis, my intent is to ensure the current restrictions apply to contracting decisions to the same extent they apply to other "legislative or administration actions." I am willing to work with Commission staff on language to achieve that purpose.

Additionally, if clarification is needed to ensure the bill applies to attempts by third parties to influence contracting decisions, I will amend AB13 to make that clear.

Finally, preliminary discussions with Commission staff have indicated it may be prudent to amend AB13 to direct the Commission to adopt regulations to implement the bill. I have prepared such an amendment.

I would like to thank the Commission again for its thoughtful consideration of AB13. I look forward to continued cooperation in this effort.

Sincerely,



DEAN FLOREZ, Assemblymember
30th Assembly District